

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 16060 of M. Delia and R. Michael Neuman, as amended, pursuant to 11 DCMR 3107.2 for a variance to allow an accessory garage that is less than 12 feet from the centerline of the adjacent alley [paragraph 3200.2(b)] and a variance from the allowable lot occupancy requirements (subsection 403.2) in an R-4 District at premises 121 E Street, S.E. (Square 736, Lot 111).

HEARING DATES: July 19, 1995; September 13, 1995;  
November 15, 1995; January 10, 1996; and  
February 28, 1996

DECISION DATE: February 28, 1996 (Bench Decision)

ORDER

SUMMARY OF EVIDENCE:

1. The property that is the subject of this application is located on the south side of E Street S.E. between 1st and 2nd streets, and consists of one lot of record (Lot 111) containing 1307.6 square feet of land area. It is improved with a two-story brick row dwelling built in 1907, having 1262 gross square feet of floor space and a lot occupancy of 660 square feet (50.4 percent). The site's rear yard abuts a 15-foot wide public alley and has a depth of 39.25 feet.

2. The site is located in the Capitol Hill Historic District. The area surrounding it is primarily residential, developed with row dwellings and small to medium sized apartment buildings. A number of commercial establishments are located to the northwest of the site along 1st Street S.E. North Carolina Avenue S.E. is located directly north of the site, while Folger Square is situated one block to the northeast at D and 2nd Streets. The U.S. Capitol and grounds are located to the northeast at D and 2nd Streets. The U.S. Capitol and grounds are located three blocks to the northwest of the site along 1st Street S.E.

3. The site is located in an R-4 zone district. This zone permits matter of right residential land uses with a minimum lot area of 1,800 square feet, a minimum lot width of 18 feet, a maximum lot occupancy of 60 percent, and a maximum height of three stories/40 feet. The R-4 District further requires a 12-foot setback from the alley centerline.

4. The applicants are proposing to construct a one-car accessory garage at the rear of the subject property. The applicants' original application was for a building bearing the dimensions of 16 feet 6 inches wide by 19 feet long and 11 feet high. To accommodate the concerns of their community, the applicants are now seeking a building that is 12 feet wide by 18 feet long by 9 feet 3 inches high, with a lot occupancy of no more than 65 percent. Access to the garage would be from the abutting 15-foot wide public alley. Storage space would also be contained within the structure. The applicants stated that the three primary purposes of the construction are: the creation of a safe parking area; improved security for the home; and increased storage space.

5. The applicants contend that a practical difficulty exists from the uniquely small size of their house, the small size of their lot, the lack of a basement in their house, and safety concerns. These facts, they believe, serve as proof of a substantial lack of space which, when coupled with the fact that they are full-time resident owners who must cope with this situation on a permanent basis, creates a practical difficulty.

6. The applicants offered testimony to the effect that the proposed relief would not serve as a substantial detriment to the public good, nor would it affect the integrity of the zoning plan.

7. The D.C. Office of Planning (OP) offered evidence to support its recommendation (in terms of both the original and modified plans) that the variances be denied, as it found that the property was neither unique, nor was it affected by a practical difficulty. The OP further found that the proposed garage would adversely affect the neighboring property relative to adequate light, air, and overall environmental quality. In addition, the OP found that the proposed structure would impair the intent, purpose, and integrity of the R-4 District Regulations.

8. The ANC 6B voted to oppose the application for zoning relief, but did not offer reasons to support their vote.

9. The one letter sent in opposition by the neighbor living adjacent to the applicants, and whose property would be most affected by the structure, was withdrawn in light of the modification of the dimensions of the structure. Letters in support of the application were also received by the Office of Zoning, citing safety concerns as the reasons for support.

10. Both the Historical Preservation Review Board (HPRB) and the Capitol Hill Restoration society voted to support the application, in light of security concerns and the shallowness of the applicants' lot. The HPRB imposed the following conditions which the applicants incorporated in their modified plans:

1. Height of accessory garage no more than 9 feet 3 inches;
2. Lot occupancy no more than 65 percent; and
3. Garage to be constructed on the east property line of the lot.

**FINDINGS OF FACT:**

Based on the evidence of record, the Board finds as follows:

1. The subject property is located on a nonconforming lot.
2. The property is unique in the sense that it is the only property with the following characteristics: it is the smallest house without a basement on the south-side of E street, and it abuts Duddington Manor apartments with an 0.7 feet of space along the length of the house, which further reduces the amount of space of the applicants' property.
3. In order to achieve a garage and still be within the 60 percent occupancy requirement, the proposed garage would need to be 18 feet long and 8 feet 6 inches wide externally. Internally, it would measure 17 feet by 7 feet 6 inches wide. Such a construction would not serve the purposes of the proposed addition, and would create a practical difficulty on the applicants.

**CONCLUSIONS OF LAW AND OPINION:**

Based on the foregoing findings of fact and evidence of record, the Board concludes that M. Delia and R. Michael Neuman, by their amended application, are seeking an area variance pursuant to 11 DCMR 3107.2 to allow an accessory garage that is less than 12 feet from the centerline of the adjacent alley [Paragraph 3200.2(b)] and an area variance from the allowable lot occupancy requirements (Subsection 403.2) in a R-4 District at premises 121 E Street S.E. (Square 736, Lot 111).

The granting of such variances require a showing through substantial evidence that the application can be granted when by reason of an exceptional situation, the strict application of the regulation would result in a practical difficulty upon the owner of the property, and that the relief can be granted without a substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Because of the modified construction plans, and the support of the neighbor most affected by the relief, if granted, the Board finds that the public good will not be adversely affected, nor

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would the proposed relief substantially impair the intent, purposes and integrity of the Zoning Regulations and Map.

The Board concludes that the applicant has met the burden of proof for both variances.

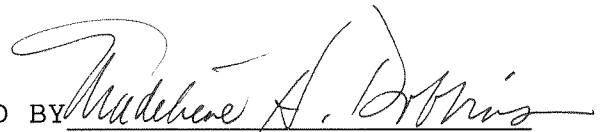
The Board concludes that it has accorded the report of ANC 6B the consideration to which it is entitled.

Based on the foregoing, the Board **ORDERS** that this application is **APPROVED**.

**VOTE: 4-1** (Maybelle Taylor Bennett, Angel F. Clarens, Sheila Cross Reid, Laura M. Richards to approve; Susan Morgan Hinton opposed to the motion.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY



MADELIENE H. DOBBINS  
Director

FINAL DATE OF ORDER NOV 29 1996

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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